



General Assembly

February Session, 2002

Amendment

LCO No. 3460

SB0060803460SD0

Offered by:

SEN. COLEMAN, 2nd Dist.

To: Subst. Senate Bill No. 608

File No. 390

Cal. No. 254

"AN ACT CONCERNING THE DNA DATA BANK."

1 After line 177, add the following:

2 "Sec. 6. (NEW) (*Effective January 1, 2003*) (a) Notwithstanding any
3 other provision of law, a person convicted of a crime may apply to the
4 sentencing court for DNA testing to support a claim that the person
5 did not commit the crime of which the person was convicted.

6 (b) The court shall notify the state of an application made under
7 subsection (a) of this section and shall afford the state an opportunity
8 to respond.

9 (c) The court shall order that all evidence secured in relation to the
10 case that could be subjected to DNA testing must be preserved during
11 the pendency of the proceeding. The court may impose appropriate
12 sanctions, including criminal contempt, for the intentional destruction
13 of evidence after such an order.

14 (d) (1) The court shall order DNA testing pursuant to an application

15 made under subsection (a) of this section upon a determination that:

16 (A) The evidence is still in existence, and in such a condition that
17 DNA testing may be conducted;

18 (B) The evidence was never previously subjected to DNA testing, or
19 was not subject to the type of DNA testing that is now requested and
20 that may resolve an issue not resolved by previous testing;

21 (C) The proposed DNA testing uses a scientifically valid technique;
22 and

23 (D) The proposed DNA testing has the scientific potential to
24 produce new, noncumulative evidence material to the claim of the
25 applicant that the applicant did not commit the crime of which the
26 applicant was convicted.

27 (2) The court shall not order DNA testing under subdivision (1) of
28 this subsection if the prosecutor proves by a preponderance of the
29 evidence that the application for DNA testing was made to
30 unreasonably delay the execution of sentence or administration of
31 justice, rather than to support a claim described in subparagraph (D) of
32 subdivision (1) of this subsection.

33 (3) If the court orders DNA testing under subdivision (1) of this
34 subsection, the court shall impose reasonable conditions on such
35 testing designed to protect the integrity of the evidence and the testing
36 process and the reliability of the test results.

37 (e) The cost of DNA testing ordered under subsection (d) of this
38 section shall be borne by the state or the applicant, as the court may
39 order in the interests of justice, except that an applicant shall not be
40 denied testing because of an inability to pay the cost of testing.

41 (f) The court may at any time appoint counsel for an indigent
42 applicant under this section."